

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing Nos. Y-02/09-108  
 )  
 ) & Y-04/09-215  
Appeal of )

INTRODUCTION

The petitioner appeals decisions by the Office of Vermont Health Access (OVHA) denying Medicaid transportation payments and by the Department for Children and Families, Economic Services Division (ESD) denying general assistance (GA) for transportation to medical appointments. The following findings of fact are based on documents submitted by the parties at and subsequent to telephone hearings held on March 6 and April 3, 2009.

FINDINGS OF FACT

1. The petitioner is a single woman with a history of myriad medical problems. She lives in Middlebury, Vermont. She requested a fair hearing on February 17, 2009 after OVHA denied her request for financial reimbursement for transportation expenses she has incurred going to medical and dental appointments in Boston, Massachusetts, and to a psychologist in Woodstock, Vermont. The basis of OVHA's decision was that the petitioner had not demonstrated that

the services were of an emergency nature and were not available to her closer to her home.

2. At the hearings held on March 6 and April 3, 2009, the petitioner agreed to furnish, and OVHA agreed to review, any additional documentation supporting the petitioner's claim that transportation to these particular services was, or is, medically necessary.

3. At the hearing on April 3, 2009, the hearing officer also advised the petitioner that she could apply for GA if she felt she had an immediate emergency need for transportation to any of these services while her OVHA appeal was pending. The petitioner applied to ESD for GA on April 10, 2009 for transportation expenses to a dental appointment in Boston, which ESD denied. On April 15, 2009 the hearing officer declined to issue "expedited relief" to the petitioner due to the lack of evidence that the petitioner had a dental emergency that could not be treated in Vermont.

4. Following the hearings the petitioner submitted three written statements from various medical providers. One was a copy of the following letter to her, dated March 4, 2009, from her treating psychologist in Woodstock, Vermont:

In response to your note of February 24<sup>th</sup>, I am writing this letter to state my professional opinion that your seeing me one to two times monthly is not only an

essential component of your mental health, but also has on many occasions has been responsible for preventing lengthy stays in psychiatric facilities. It is also my professional opinion that if you were unable to afford to see me at least once monthly, the cost to the taxpayers of Vermont and the United States for your psychological treatment will far exceed the cost for transportation to my office and my bill to Medicare and Medicaid for one to two sessions monthly.

5. Although it appears that Medicaid covers the cost of her actual visits to this psychologist, and although OVHA would probably concede that the petitioner is a problematic patient, there is nothing in the above letter or any other documentation submitted by the petitioner that establishes or suggests that appropriate psychological treatment and counseling is not available to her in or around Middlebury, including Burlington or Rutland, all of which are considerably closer to her home than Woodstock.

6. Regarding her dental problems, the petitioner submitted the following statement from her primary care physician:

Please assist [petitioner] with transportation costs for the purpose of obtaining complete and adequate dental care. She has made two attempts to obtain affordable care within Vermont without success. At Tufts Dental School in Boston she can receive comprehensive care; including endonture, periodonture, and oral surgery services for a nominal fee. There are no such services available and affordable in Vermont or at Dartmouth Hitchcock Medical Center.

7. The petitioner also submitted copies of an extensive dental treatment plan prescribed to her by Tufts University Dental School in Boston for which the cost estimate is over \$7,500. It is not clear whether Tuft's "nominal fee" means that it is willing to provide any or all of these services if they are not covered by Medicaid beyond the annual \$495 cap on such services (or, indeed, that it, or for that matter, the petitioner, is even aware of this cap on coverage for dental services for Vermont Medicaid recipients). (See *infra.*)

8. To date, the petitioner has not submitted any medical evidence that her dental problems pose an emergency medical condition, or that, even if they did, any strictly emergency treatment could not be provided in Vermont.

9. To date, the petitioner has also not submitted any medical evidence or documentation that any other medical treatment she receives or wishes to obtain in Boston either is (or was) an emergency or could not have been provided in Vermont.

ORDER

OVHA's Medicaid and ESD's GA decisions are affirmed.

REASONS

Transportation is a covered Medicaid service and the regulations provide for necessary transportation for recipients to access their medical providers. W.A.M. § M755 states:

Transportation

Transportation to and from necessary medical services is covered and available to eligible Medicaid recipients on a statewide basis.

The following limitations on coverage shall apply:

1. Prior authorization is required. (Exceptions may be granted in a case of a medical emergency.)
2. Transportation is not otherwise available to the Medicaid recipient.
3. Transportation is to and from necessary medical services.
4. The medical service is generally available to and used by other members of the community or locality in which the recipient is located. A recipient's freedom of access to health care does not require Medicaid to cover transportation at unusual or exceptional cost in order to meet a recipient's personal choice of provider.
5. Payment is made for the least expensive means of transportation and suitable to the medical needs of the recipient.

6. Reimbursement for the service is limited to enrolled transportation providers.
7. Reimbursement is subject to utilization control and review in accordance with the requirements of Title XIX.
8. Any Medicaid-eligible recipient who believes that his or her request for transportation has been improperly denied may request a fair hearing. For an explanation, see the "Fair Hearing Rules" listed in the Table of Contents.

GA is available only to cover a "catastrophic situation" that involves an "emergency medical need". W.A.M. §§ 2600 & 2620.

The issues in this case are whether the petitioner has shown that she does not have necessary and appropriate medical services available to her in her community, and whether any of the services to which she seeks transportation constitute emergency treatment. As noted above, the petitioner has not submitted any medical evidence that even addresses, much less supports, her claims regarding either of these issues. If and when she can obtain and submit such

evidence she is free to reapply for either Medicaid or GA for coverage of any transportation expense.<sup>1</sup>

Accordingly, OVHA's and ESD's decisions to deny medical transportation expenses under Medicaid and GA respectively must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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<sup>1</sup> In the alternative, if the petitioner can show that Tufts is willing to provide her with the dental services it has prescribed for a "nominal fee" *regardless of the \$495 annual Medicaid cap on such services*, she can reapply for transportation to this provider, inasmuch as it appears this would meet the requirements of the above regulation.